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AT SEATTLE
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CV 01-00809 #00000063

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
on its own behalf and as
trustee on behalf of the
Lummi Nation,

Plaintiffs,

v.

KEITH E. MILNER and SHIRLEY
A. MILNER, et al.,

Defendants.

NO. C01-809R

ORDER DENYING MOTION
FOR LEAVE TO FILE
THIRD-PARTY COMPLAINT

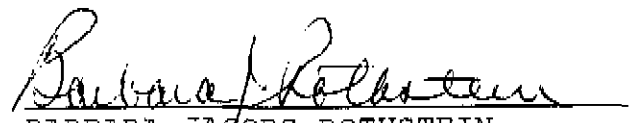
This matter comes before the court on a motion by defendants seeking leave to file a third-party complaint against Tosco Corporation, Atlantic Richfield company and Intalco Aluminum Company. The court, having reviewed the relevant pleadings filed in support of and opposition to the motion, finds that oral argument would not be helpful in this matter and rules as follows:

Whether or not to permit the impleading of a third-party defendant is a decision that is left to the discretion of the trial court. See United States v. One 1977 Mercedes Benz, 708

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1 F.2d 444, 452 (9th Cir. 1983). That decision requires the court
2 to weigh the effect that granting the impleader will have on the
3 original suit. In this case, the court finds that impleading the
4 three third-party defendants will require the trial of issues not
5 raised in the original action. These issues include complicated
6 questions of erosion and avulsion of beaches and tidelands and the
7 alleged effects of the actions of three separate corporations on
8 defendants' beaches. Allowing impleader in this case would unduly
9 complicate the original action. Therefore, in the exercise of its
10 discretion, the court DENIES defendants' motion for leave to file
11 a third-party complaint.
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13 DATED at Seattle, Washington this 27th day of December, 2001.
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16 BARBARA JACOBS ROTHSTEIN
17 UNITED STATES DISTRICT JUDGE
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ORDER
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